

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

)
WHITNEY CABLE, *et al.*, on behalf of)
themselves and others similarly)
situated,)
)
Plaintiffs,) Case No. 1:20-cv-11293
) District Judge Thomas L. Ludington
v.) Mag. Judge Patricia T. Morris
)
BOYCE HYDRO POWER, LLC, *et al.*)
)
Defendants.)
/

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STIPULATION FOR DISMISSAL WITHOUT PREJUDICE

Plaintiffs Whitney Cable, Tyler Smith, Nico Anthony Smith, John D Surfus Enterprise Inc., John Surfus Rental Account Inc., Katrina McLaughlin, and P. McLaughlin Properties, LLC., on behalf of themselves and the putative class (“Plaintiffs”), together with Defendants Boyce Hydro Power, LLC, Edenville Hydro Property, LLC, Boyce Michigan, Boyce Hydro, LLC, Smallwood Hydro Property, LLC, Sanford Hydro Property, LLC, William D. Boyce Trust No. 2350, William D. Boyce Trust 3649, William D. Boyce Trust No. 3650, Lee W. Mueller, Stephen B. Hultberg, Michael W. D’Avenas, Michele G. Mueller (“Boyce Defendants”), Midland County, Gladwin County (“County Defendants”), Four Lakes Task Force, Four Lakes Operations Company, Inc. (“Four Lakes Defendants”), Teresa Seidel, Brian Rudolph, James T. Pawloski, and Lucas Trumble (“Individual State Defendants”) (collectively “the Parties”), hereby stipulate and agree and request a Court order pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) dismissing this action in its entirety without prejudice.

Notice to the putative class is not necessary for dismissal nor required by Federal Rule of Civil Procedure 23(e) because the putative class has not been certified nor is a class proposed to be certified as a basis for settlement. The proposed class members have yet to receive any court-authorized notice of this action. Therefore, they are likely unaware that this action exists or that it sought to advance their interests. Additionally, the proposed class as defined by the First

Amended Complaint, (Compl. ¶ 274, ECF No. 23), overlaps significantly with the proposed classes in other actions filed in federal court, including without limitation *Borchard v. Boyce Hydro Power, LLC*, No. 1:20-cv-11297 (E.D. Mich.); *Brooks v. William D. Boyce Trust 2350 u/a/d 10/1908*, 1:20-cv-11433 (E.D. Mich.); *Bruneau v. Mich. Dep't of Enviro., Great Lakes & Energy*, No. 1:20-cv-11588 (E.D. Mich.); *Clarkson v. Boyce Hydro Power, LLC*, No. 1:20-cv-11288 (E.D. Mich.); *Grover v. William D. Boyce Trust 2350 u/a/d 10/1908*, No. 1:20-cv-11428 (E.D. Mich.); *Homrich v. William D. Boyce Testamentary Trust 3649*, No. 1:20-cv-11295 (E.D. Mich.); *Woods v. Midland County*, No. 1:20-cv-11351 (E.D. Mich.), as well as in matters filed in Michigan state courts. The interests of the putative class members may continue to be served in these similar actions. Additionally, putative class members have more than ample opportunity to file their own individual actions should they so choose. Notice is not necessary.

The Parties accordingly request a Court order dismissing this action without prejudice and without further action and direct each party to bear its own fees and costs related to the matter.

Dated: February 26, 2021

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**ORDER GRANTING STIPULATION OF DISMISSAL WITHOUT
PREJUDICE**

This matter has come before the Court upon stipulation and agreement by and between the parties hereto through its respective counsel of record.

IT IS HEREBY ORDERED THAT, pursuant to Federal Rule of Civil Procedure 23(e) and 41(a)(1)(A)(ii) this action by and between all parties of record is hereby dismissed without prejudice. Each party shall bear their own fees and expenses associated with this action.

SO ORDERED.

Dated: March 2, 2021

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge